THE HON'BLE SRI JUSTICE G.V. SEETHAPATHY

W.P.No.12108 of 2005

Dated 12th JULY 2006

Between:
Pigilam Chengaiah S/o Venkateswarlu, 30 years
R/o Annamedu village, Naidupet Mandal
Nellore district

… Petitioner

And:

The Assistant Engineer Rural Section
S.P. Discom of A.P.Ltd., Naidupet
Nellore district & another

… Respondents

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W.P.No.12108 of 2005

ORDER:

This writ petition has been filed seeking writ of Mandamus declaring the letter No.A2/rurals/Naidupet/D.No.66/2005, dated 3.6.2005 issued by the Assistant Engineer, Rural Section, S.P. Discom of A.P. Ltd., Naidupet, Nellore district – 1st respondent, directing the petitioner to disconnect the electricity service ASC No.132 and further action of the 1st respondent in disconnecting power supply on 4.6.2005 itself as illegal, arbitrary and without any authority and to set aside the same.

2.Heard the learned counsel for the petitioner and respondents.

3. The petitioner is the pattadar and is in possession of Ac.2.62 cents of agricultural land comprised in Sy.Nos.128-1,
128-2 and 128-3B of Annamedu village, Naidupet Mandal, Nellore District, having purchased the same under registered sale deed dated 29.09.2003. According to the petitioner, his predecessor in title Sri Shaik Sathar Saheb dug a bore well in the said land more than 15 years back and obtained electricity service connection No.132 from A.P.S.E.B. and fixed up a motor to the said bore well and was irrigating the above said lands. The vendor of the petitioner by name Smt. Padmavatamma was also irrigating the lands with the aid of the water drawn from the above said bore well and ever since his purchase of

the land, the petitioner has been utilizing the water from the same bore well for irrigation purpose and there is no alternative source of water. The petitioner complains that on 3.6.2005, the 1st respondent issued impugned letter directing the petitioner to remove the electricity service connection No.132 within a period of one week and on the very next day i.e. 4.6.2005, the 1st respondent has disconnected the electricity supply without even waiting for reply from the petitioner. The petitioner, therefore, assails the action of the 1st respondent in this writ petition, in issuing impugned letter dt.3.6.2005 directing the petitioner to show cause as to why electricity service connection shall not be disconnected and also the action of the 1st respondent effecting disconnection on 4.6.2005.

4. Learned counsel for the respondents contended that the impugned notice dated 3.6.2005 was issued on the guise of complaint received from the Mandal Revenue Officer to the effect that the petitioner has dug a new bore well and fixed the motor without any permission from the revenue authorities and the petitioner has illegally transferred the old service connection to the new motor without permission from the Electricity Department. Learned counsel further contended that the impugned letter is only in the nature of show cause notice and without giving any reply to the same, the petitioner has rushed to the Court and filed the present writ petition.

5. It is not disputed that an interim direction was given on 9.6.2005 in W.P.M.P.No.15406 of 2005 to the 1st respondent to restore the electricity service connection bearing No.ASC 132 forthwith subject to condition that the petitioner continues to pay the charges whatever due and payable. Learned counsel for the petitioner stated that the electricity service connection has since been restored in compliance of the interim direction issued on 9.6.2005.

6. It is not disputed that the writ petitioner is the owner of the land in an extent of Ac.2.62 cents in Sy.Nos.128-1, 128-2 and 128-3B of Annamedu village and that the petitioner is having a bore well in the said land for agricultural purpose and the water from the said bore well are being drawn with the aid of a motor having electricity service connection No.132. The impugned letter dated 3.6.2005 issued by the 1st respondent makes a reference to the alleged complaint said to have been received from the Mandal Revenue Officer to the effect that the petitioner has unauthorizedly dug a new bore well and fixed a motor to it and transferred the old service connection No. ASC 132 to the new motor without the permission of the Electricity Department. The Mandal Revenue Officer, Naidupet Mandal, who is impleaded as 2nd respondent has not filed any counter in this writ petition. Admittedly, the 2nd respondent has not issued any notice to the petitioner under WALTAR Act complaining the alleged digging of a bore well by the petitioner without permission from the Revenue authorities. Without giving notice to the petitioner about the alleged digging of a new bore well by him, the 2nd respondent has chosen to complaint to the 1st respondent, basing on which, the 1st respondent issued the impugned show cause notice. Learned counsel for the respondents complained that without giving any proper reply to the show cause notice, the petitioner has rushed to the Court. Learned counsel for the petitioner on the other hand contended that the 1st respondent did not give any time to give a reply and without waiting for his reply, the service connection to the bore well was disconnected on the next day i.e. 4.6.2005 itself and so, there was no occasion for him to give any reply before disconnection.

7. In the circumstances, since the service connection has been

restored in compliance with the interim directions of this court issued on 9.6.2005, nothing remains to be decided on merits in this case and the petitioner is directed to submit his explanation to the show cause notice within a period of one month to the 1st respondent, who shall consider the same and pass appropriate orders. Until such time the service connection No. ASC 132, which is since restored, shall remain operational, subject to payment of the charges whatever due and payable thereon.

With the above directions, the writ petition is disposed of. No order as to costs.

G.V. SEETHAPATHY, J

Dated 12th JULY 2006

BSS